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6 ARMANDO SARMENTO, MERCEDES
7 TEJADA-URENA, and JOSHUA SILVA,
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9 Plaintiffs,

10 No. C 20-07922 WHA
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12 v.
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14 BUFFETS, LLC, HOMETOWN BUFFETS,
15 LLC, and VITANOVA BRANDS,
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17 Defendants.
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19 **ORDER RE DISMISSAL OF**
20 **PLAINTIFFS**

21 At the hearing on plaintiffs' counsel's motion to withdraw on June 7, 2023, from which
22 defendants were excused at their request, plaintiffs' counsel explained that he was still unable
23 to reach plaintiff Joshua Silva. Stipulations signed by all parties to dismiss plaintiffs Armando
24 Sarmento and Mercedes Tejada-Urena pursuant to FRCP 41(a)(1)(A) have been filed (Dkt.
25 Nos. 57, 65). While Rule 41 contemplates dismissal of "actions," our court of appeals has
26 interpreted it to permit dismissal of "fewer than all the plaintiffs who seek to withdraw from
27 the action." *Cf. Pedrina v. Han Kuk Chun*, 987 F.2d 608, 609 n.2 (9th Cir. 1993) (quoting 5
28 James Wm. Moore et al., *Moore's Federal Practice* ¶ 41.06-1, at 41-86 to 41-88 (2d ed.
1992)). And, in any event, Rule 21 states that "[o]n motion or on its own, the court may at any
time, on just terms, add or drop a party." Furthermore, defendants' counsel has filed a report
under penalty of perjury explaining that the trustee in the corresponding bankruptcy
proceedings David Gonzales has consented to dismissal of this action and confirmed that such

1 dismissal does not violate any automatic stay in place due to those proceedings (Dkt. No. 63).

2 This order thus confirms that plaintiffs Sarmento and Tejada-Urena are dismissed.

3 As to plaintiff Silva, the Court requested at the hearing that plaintiffs' counsel make a
4 further attempt to contact his client. The Court shall determine how to proceed as to plaintiff
5 Silva after receiving an update on those efforts. Otherwise, this action remains stayed.

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7 **IT IS SO ORDERED.**

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9 Dated: June 8, 2023.

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12 WILLIAM ALSUP
13 UNITED STATES DISTRICT JUDGE